

Serial No. 10/759,419

Attorney Docket No. VX012307

REMARKS

Claims 26-43 are pending. Claims 1-25 have been canceled. Claims 26-31 and 35-43 have been allowed. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 32-34 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3-7 of US patent No. 6,758,918. The applicants respectfully request withdrawal of this rejection for the following reasons.

The office action states that "Although the conflicting claims are not identical, they are not patentably distinct from each other because each set of claims recites the same values for each of the subscripts, the same flake thickness, the same intrinsic coercive force and the same crystal structure." However, note that claims 5 and 7 of US patent No. 6,758,918 depend on independent claim 2. From reading independent claim 2, it can be seen that claims 5 and 7 of US patent No. 6,758,918 have different subscript values than the formula of claims 32-34 of the present application and fail to recite an intrinsic coercive force. Further, from reading independent claim 2, it can be seen that claims 5 and 7 require component M^2 , which is not required by any of claims 32-34 of the present application. Since claims 5 and 7 of US patent No. 6,758,918 are dependent on claim 2, they are significantly different from claims 32-34 of the present application and cannot render claims 32-34 obvious.

Further, claims 6 and 7 of US patent No. 6,758,918 explicitly exclude Ce. Claims 32-34 of the present application require Ce. The office action does not mention this difference and fails

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to state that this difference is obvious. This is not an obvious difference, and claims 6 and 7 of US patent No. 6,758,918 cannot render claims 32-34 of the present application obvious.

Claims 4 and 6 of US patent No. 6,758,918 depend on claim 1. Therefore, claims 4 and 6 of US patent No. 6,758,918 have different subscript values than the formula of claims 32-34 of the present application and fail to recite a coercive force, contrary to what is stated in the office action. Further, from a reading of independent claim 1, it can be seen that claims 4 and 6 require component M¹, which is not required by any of claims 32-34 of the present application. Since claims 4 and 6 of US patent No. 6,758,918 are dependent on claim 1, they are significantly different from claims 32-34 of the present application and cannot render claims 32-34 obvious.

From the examiner's use of the phrase "two sets of claims" it appears that the examiner may have mistakenly considered claims 4-7 to depend on claim 3. In other words, a "set" of claims normally refers to an independent claim and its dependents. However, claims 3-7 of US patent No. 6,758,918 do not form a "set of claims" as this phrase is normally used because claims 4-7 do not depend on claim 3.

Claim 3 of US patent No. 6,758,918 is the closest in subject matter to claims 32-34 of the present application. Therefore, the following discussion concerns claim 3. The office action further states that "The two sets of claims differ only in the amount of Ce that may be substituted for Sm. The Sm proportion while not the same in the two sets of claims does overlap. Such an overlap establishes a prima facie case of obviousness..." However, this statement is inaccurate, because claim 3 of US patent No. 6,758,918 does not require Ce in any quantity. There is nothing in claim 3 to suggest including Ce in the formula. Therefore, there is no "overlap" between claim 3 and any of claims 32-34 of the present application, and claim 3 of US patent No.

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6,758,918 differs significantly from claims 32-34 of the present application, and this rejection should be withdrawn.

In view of the foregoing, the applicants submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

If there are any problems with the payment of fees, please charge any underpayments and credit any overpayments to Deposit Account No. 50-1147.

Respectfully submitted,


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